IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Writ Petition No. 4518 (M/S) of 2001

With

Restoration Application No.4086 of 2001

(Old No. 45975 of 1999)

Mukul Saxena S/o Prem Bahadur
Saxena, Resident of House No.1, Shivaji
Marg, Dehradun. ....Petitioner

Vs

1. The Civil Judge (Sr. Division) Dehradun.
2. Smt. Laj Gupta wife of late Babu Ram Gupta
3. Jayant Gupta
4. Manoj Gupta
   Both sons of Babu Ram Gupta.
5. Smt. Arti Gupta D/o Late Babu Ram Gupta
   Resp No.2 to 5 R/o 56/4, Jhanda Mohalla, Dehradun.
6. Dinesh Kumar Gupta
7. Devendra Kumar Gupta
   Both Sons of late Sri Khem Chandra resident of 56/4
   Jhanda Mohalla, Dehradun. .....Respondents

Rajendra Dobhal learned counsel for the petitioner.
Sri R.C. Arya learned Standing counsel for the State.

Dated:- 05-09-2006

Hon'ble B.S. Verma , J.

Heard Sri Rajendra Dobhal learned counsel for the petitioner and Sri R.C.Arya learned standing counsel for the State.

Cause shown for restoration of the case is sufficient.

Restoration application is allowed.

The order dated 13-9-2001 is hereby recalled and the writ petition is restored to its original number along with interim order dated 31-7-2000.

The petitioner has filed the present writ petition to issue a writ, order or direction in the nature of certiorari quashing the impugned

order dated 5-10-1999 in P.A. Case No. 83 of 1997 passed by the respondent No.1 (Annexure-2to the writ petition).

By the impugned order an application 130-A which was moved by the applicant on the death of the applicant No.1, on behalf of the legal heirs of the applicant No.1 before the Prescribed Authority was allowed as no objection was filed against the substitution application.

Learned counsel for the respondents made a request before the Court that they may be granted time to file additional written statement. The prayer made by respondents has been rejected by the Civil Judge (Senior Division), Dehradun on the ground that no amendment in the pleadings was made by the plaintiff, therefore, no time can be granted to the defendants to file Additional written statement.

In view of the fact that no amendment in the pleadings was made, I find no infirmity and illegality in the order impugned. The prayer made by the defendants have rightly been rejected by the Civil Judge (Senior Division), Dehradun. even if the petitioner wants to add some pleadings in written statement, may move the amendment application to amend the written statement, if it is required and permissible under law.

Interim order dated 31-7-2000 is hereby vacated.

With the said observation, the writ petition is dismissed. No order as to costs.

(B.S. Verma, J.)

Dated: 05-09-2006
M.K.